

Internal Revenue Service

Number: **201505012**

Release Date: 1/30/2015

Index Number: 368.01-00, 368.12-00,
351.00-00

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

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PLR-118775-14

Date: October 14, 2014

REIT =

TRS =

New TRS =

Partnerships =

PLR-118775-14

2

Other Partnerships =

PLR-118775-14

3

Subsidiaries

=

DREs

=

Contracts =

State A =

Date =

a =

b =

c =

d =

e =

f =

g =

Dear :

This letter responds to your request, dated May 5, 2014, submitted by your authorized representatives on behalf of REIT, for a ruling on certain federal income tax consequences of a proposed transaction (the Proposed Transaction). The information submitted in that request and in later correspondence is summarized below.

The ruling contained in this letter is based upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

This letter is issued pursuant to section 6.03 of Rev. Proc. 2014-1, 2014-1 I.R.B. 15, regarding one or more significant issues under sections 332, 351, 355, 368, or 1036. The ruling contained in this letter only addresses one or more discrete legal issues involved in the transaction. This Office expresses no opinion as to the overall tax

consequences of the transaction described in this letter or as to any issue not specifically addressed by the ruling below.

SUMMARY OF FACTS

REIT is a publicly traded, State A corporation that has elected to be taxable as a real estate investment trust. In addition to owning direct interests in real estate, REIT owns (i) all of the stock of TRS, which has made an election to be classified as a taxable REIT subsidiary; and (ii) interests in the Partnerships, each of which is classified as a partnership for U.S. federal income tax purposes.

TRS is the sole other partner in the Partnerships. TRS also owns (i) interests in the Other Partnerships, each of which is classified as a partnership for U.S. federal income tax purposes; (ii) all of the stock of the a Subsidiaries, each of which is classified as a corporation for U.S. federal income tax purposes; (iii) interests in the DREs, each of which is classified as an entity that is disregarded as separate from its owner for U.S. federal income tax purposes; and (iv) the Contracts, which relate to real estate management and development (items (i) through (iv), the “Other Assets”).

TRS’s interests in the Partnerships constitute approximately b percent of the total fair market value of TRS’s assets, and the Other Assets constitute approximately c percent of the total fair market value of TRS’s assets. As of Date, TRS has net operating losses of approximately \$d and a section 163(j) disallowed interest expense carryforward of approximately \$e.

REIT’s management has decided to simplify its corporate structure and to restructure certain portions of TRS’s business operations to consolidate the holding of the assets and entities currently held by TRS and to directly hold certain business assets currently held by TRS, to the extent such assets are qualified REIT assets. REIT believes this consolidation will result in more efficient management of REIT’s and TRS’s business operations. REIT’s management would also like to ensure that the Partnerships continue in existence as partnerships for U.S. federal income tax purposes following the Proposed Transaction.

PROPOSED TRANSACTION

For what are represented to be valid business reasons, Distributing proposes to undertake the Proposed Transaction:

- (i) Each of the Subsidiaries will legally dissolve under applicable state law.

- (ii) TRS will form a new State A limited liability company, New TRS, and an initial entity classification election on Form 8832 will be filed to treat New TRS as a corporation for U.S. federal income tax purposes.
- (iii) TRS will contribute its interests in the Partnerships to New TRS (“Pre-Merger Transfer”). The fair market value of the property to be contributed to New TRS in the Pre-Merger Transfer will constitute approximately b percent of the total fair market value of TRS’s assets immediately prior to the Proposed Transaction.
- (iv) REIT and TRS will file Form 8875, *Taxable REIT Subsidiary Election*, for New TRS to be classified as a taxable REIT subsidiary (within the meaning of section 856(l)).
- (v) TRS will merge with and into REIT with REIT surviving (“Merger”).
- (vi) REIT will contribute (i) all but f of TRS’s interests in the Other Partnerships, and (ii) certain of the Contracts to New TRS (together, the “Transferred Assets,” and such contributions, the “Post-Merger Transfer”). The fair market value of the property contributed to New TRS in the Post-Merger Transfer will constitute approximately g percent of the total fair market value of TRS’s assets immediately prior to the Proposed Transaction. Further, the total fair market value of the property contributed to New TRS in both the Pre-Merger Transfer and the Post-Merger Transfer, collectively, will not exceed 70 percent of TRS’s aggregate assets immediately prior to the Proposed Transaction.
- (vii) REIT will retain: (i) its interests in the Partnerships and the TRS’s interests in the f Other Partnerships not transferred to New TRS, (ii) the DREs; and (iii) certain of the Contracts to the extent they are not transferred to New TRS in the preceding Step (“Retained Assets”).

RULINGS

Based solely on the information submitted, we rule as follows:

The Pre-Merger Transfer and the Post-Merger Transfer will not preclude (i) the Merger from qualifying as a reorganization of TRS into REIT under section 368(a)(1)(A) and (a)(2)(C), or (ii) the relevant provisions of subchapter C of the Code from applying to REIT as the acquiring corporation as defined in section 381 in accordance with such characterization of the Merger.

CAVEATS

Except as expressly provided herein, no opinion is expressed or implied concerning the tax treatment of the Proposed Transaction under any provision of the Internal Revenue Code and regulations or the tax treatment of any condition existing at the time of, or effects resulting from, the Proposed Transaction that is not specifically covered by the above ruling. In particular, no opinion is expressed regarding: (i) whether the Merger otherwise qualifies as a reorganization under section 368(a)(1); (ii) whether the Pre-Merger Transfer and Post-Merger Transfer otherwise qualify for no gain or loss treatment under section 351(a); (iii) whether REIT qualifies as a real estate investment company under subchapter M of the Code; (iv) whether TRS qualifies as a Taxable REIT Subsidiary under subchapter M of the Code; and (v) whether New TRS will qualify as a taxable REIT subsidiary under subchapter M of the Code.

PROCEDURAL STATEMENTS

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Gerald B. Fleming
Senior Technician Reviewer, Branch 2
Office of the Associate Chief Counsel
(Corporate)